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Thursday, December 6, 2001

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

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In re

DEEPAK and KUSUM STOKES,

No. 99-12603

[Debtor](#) ⓘ(s).

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NORTHWEST FARM CREDIT SERVICES,

[Plaintiff](#) ⓘ(s),

v.

A.P. No. 00-1118

DEEPAK and KUSUM STOKES,

[Defendant](#) ⓘ(s).

_____ /

Memorandum of Decision

Debtors and defendants Deepak and Kusum Stokes are both medical doctors. In addition to medical practice, they had extensive business dealings. Prior to bankruptcy, plaintiff Northwest Farm Credit Services obtained a large judgment against them. In this [adversary proceeding](#), Northwest seeks denial of the Stokes' [discharge](#). Northwestern identified several acts which, if proved, would have resulted in denial of the Stokes' discharge. However, when the court read the Stokes' own proposed findings and conclusions, it appeared that they admitted one of the acts and the requisite intent. They proposed the following finding:

4. The Court finds that the debtors did in fact deposit some funds into a bank account in the name of their son, Arvind Stokes, but that said deposit was made because of a levy by the Plaintiff on the Defendant's [sic] own bank accounts.

Because this admission appeared to mandate denial of discharge pursuant to § 727(a)(2)(A) of the [Bankruptcy Code](#), the court directed Northwest to confine its case to this issue. After hearing some testimony, it became clear that the facts were even worse than those admitted by the Stokes. During the year before bankruptcy, they transferred many tens of thousands of dollars to their son's bank account so that Northwest could not levy on the money. The Stokes had Arvind give them numerous checks which he had signed in blank. They used these checks to pay their bills and expenses. The Stokes argue that their intent in placing their money in Arvind's account was to preserve their estate from Northwestern and that denial of their discharge for this act is therefore not justified. This argument stems from a misreading of the law. Section 727(a)(2)(A) provides that the court may not grant a discharge to debtors who transferred or concealed their property within one year before their bankruptcy "with intent to hinder, delay or defraud a [creditor](#)." [emphasis added]. If a debtor transfers or conceals property with the intent to hinder a single creditor, the requisite intent is established. In any event, it was clear that the Stokes were motivated only by a desire to thwart Northwestern and not any sort of altruistic concern for other creditors. The evidence established that within the year before bankruptcy the Stokes transferred many tens of thousands of dollars to their son's bank account with the intent to conceal the money from Northwestern and hinder its attempts to enforce its judgment. Accordingly, the Stokes are not entitled to a discharge pursuant to § 727(a)(2)(A). Inquiry into the other alleged improper acts is accordingly not necessary. At the conclusion of testimony, the court granted Northwestern's motion for judgment based on § 727(a)(2)(A). Kusum Stokes chose not to appear and testify. After the court had recessed for lunch, reconvened and moved on to other matters, Kusum Stokes appeared and sought to be heard on the discharge issue. The court treated this as a motion for reconsideration and listened to her. Nothing in her testimony justified granting her a discharge. Kusum Stokes argued that all of the community finances were solely managed by her husband. However, it was clear from her testimony that she knew about Northwest's judgment, knew about the transfers to Arvind's account and that they were done to hinder Northwestern, and actively participated by using some of the blank checks supplied by Arvind. These facts establish that she knowingly participated in and benefitted from the improper transfers. This is sufficient to prevent her from receiving the benefits that bankruptcy law accords the honest person. See *In re Arm*, 87 F.3d 1046, 1049 (9th Cir.1996). For the foregoing reasons, judgment will be entered denying the Stokes' discharge. This memorandum constitutes the court's findings and conclusions pursuant to FRCP 52(a) and FRBP 7052. Counsel for Northwest shall submit an appropriate form of judgment forthwith.

Dated: December 6, 2001

Alan Jaroslovsky

U.S. Bankruptcy

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